

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND
2013 Legislative Session

Time Extensions of Preliminary Plans of Subdivision

BILL NO. 2013-13

Introduced by: Charles County Planning Division

Date Introduced: 10/08/ 2013

Public Hearing: 11/05/ 2013

Commissioners Action: 12/03/13 - Enact

Commissioner Votes: CQK: Y, RC: Y, KR: Y, DD: Y BR: Y

Pass/Fail: Pass

Effective Date: 12 / 13 / 2013 12:01 a.m.

Remarks: _____

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND
Subdivision Regulations

2013 Legislative Session

Bill No. 2013-16

Chapter. No. 278

Introduced by Charles County Planning Division

Date of Introduction 7/29 /13

BILL

1 AN ACT concerning:

2 Preliminary plan time extensions

3

4 FOR the purpose of:

5 Revising time extension requirements

6

7 BY repealing and enacting with amendments:

8

9 Chapter 278- Subdivision Regulations

10 Article IV, Section 25(i): Planning Commission action.

11 *Code of Charles County, Maryland*

12 May 11, 2007 Edition

13

14 **SECTION 1.** BE IT ENACTED BY THE COUNTY COMMISSIONERS OF

15 CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as
16 follows:

17

18 (i) *Planning Commission action.* No preliminary subdivision plan shall be

1 considered for action until it has been reviewed, and recommendations have been made,
2 by the TRC. The Commission will review the application, public testimony, the report
3 from the Planning Director, as well as any review agency comments, and then act for
4 approval, approval with conditions, deferral or disapproval. Reasons for action of
5 deferral or disapproval and any requirements associated with a conditional approval shall
6 be incorporated in the Commission's minutes and shall be available to the applicant and
7 the public. The following actions by the Commission shall have the meanings so stated:

8
9 i. *Approval* means the applicant is now authorized to proceed with
10 **APPLICATION FOR** the construction of physical improvements and to
11 proceed with preparation of the final plat, and the approved preliminary
12 subdivision plan is valid for a period of [two (2)] **FOUR (4)** years from the
13 date of Planning Commission approval. A developer's agreement or the posting of
14 a performance bond is now required per Section 29.

15
16 A. *Extensions.* Before expiration, the Commission may, at the request of the
17 applicant, extend the approval period in increments of not more than [one
18 (1)] **FOUR (4)** years at a time, **TWICE** for a maximum extension period
19 of **EIGHT (8) ADDITIONAL** years, **EXCEPT AS OTHERWISE**
20 **NOTED.**

21
22 (1) **PREVIOUSLY APPROVED PRELIMINARY PLANS**
23 **WHICH HAVE BEEN APPROVED FOR AT LEAST EIGHT (8)**
24 **YEARS AS OF (insert date here) SHALL BE ELIGIBLE FOR ONE**
25 **ADDITIONAL FOUR YEAR EXTENSION PROVIDED THEY**
26 **APPLY FOR SUCH PRIOR TO THEIR PRELIMINARY PLAN**
27 **EXPIRATION DATE.**

28
29 (2) **PREVIOUSLY APPROVED PRELIMINARY PLANS**
30 **WHICH HAVE BEEN APPROVED FOR LESS THAN EIGHT (8)**

1 **YEARS AS OF (insert date here) SHALL BE ELIGIBLE FOR UP TO**
2 **THREE ADDITIONAL EXTENSIONS PROVIDED ALL**
3 **EXTENSIONS DO NOT EXCEED TWELVE (12) YEARS FROM**
4 **THE PRELIMINARY PLAN’S APPROVAL DATE.**

5
6 **(3) PRELIMINARY PLANS THAT HAVE BEEN EXTENDED**
7 **FOR THE MAXIMUM PERIOD OF TIME SPECIFIED IN**
8 **SECTION 25(i)i.A. MAY BE EXTENDED FURTHER IF A**
9 **MORATORIUM ON ISSUANCE OF DEVELOPMENT APPROVALS**
10 **OCCURS, SUCH THAT A PRELIMINARY PLAN IS UNABLE TO**
11 **SATISFY SECTION 25(i)i.B.2. EXTENSIONS WILL BE EQUAL**
12 **TO THE TIME OF SUCH MORATORIUM.**

13
14 **(4) In conjunction with such approval extensions, the Commission**
15 **shall have the right to require changes in the development when it finds**
16 **that time has necessitated such changes for health, safety, and welfare of**
17 **the residents of the community or when applicable ordinances and**
18 **regulations have been changed. The Planning Commission may act on**
19 **specific phases of a preliminary plan individually, where such phases were**
20 **defined at the time of initial approval. AN APPLICATION AND**
21 **ASSOCIATED FEE WILL BE PROVIDED TO THE**
22 **DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT**
23 **(PGM) WITH ALL REQUESTS FOR APPROVAL EXTENSIONS.**

24
25 **(5) PRELIMINARY PLANS WHICH EXCEED THE**
26 **EXPIRATION DATE AND HAVE NOT COMPLIED WITH**
27 **EXTENSION REQUIREMENTS OR SECTION B(2), BELOW,**
28 **SHALL BE NULL AND VOID.**

29
30 **B. *Adequate Public Facilities [Update] required.***

31 [Any request for an extension beyond the two (2) year initial approval period shall

1 include a revised and updated Adequate Public Facilities Analysis.] **APPROVED**
2 **PRELIMINARY PLANS ARE REQUIRED TO PROVIDE FOR**
3 **ADEQUATE PUBLIC FACILITIES TO MITIGATE THE IMPACTS OF**
4 **DEVELOPMENT AND TO COMMENCE CONSTRUCTION IN**
5 **ACCORDANCE WITH THE TIME SET FORTH IN SECTIONS 25(I)(I)**
6 **AND 25(I)(I)A.**

7
8 **1. ANY REQUEST FOR AN EXTENSION BEYOND EIGHT (8)**
9 **YEARS FROM THE INITIAL APPROVAL DATE SHALL**
10 **INCLUDE A REVISED AND UPDATED ADEQUATE PUBLIC**
11 **FACILITIES ANALYSIS AND SCHEDULE FOR COMPLETION**
12 **OF REQUIRED PUBLIC FACILITIES ALONG WITH AN**
13 **ASSESSMENT OF COMPLIANCE WITH CONDITIONS. A**
14 **PHASING PLAN MAY BE CONSIDERED AS A PART OF THE**
15 **EXTENSION REQUEST.**

16
17 **2. PRELIMINARY PLANS WHICH HAVE COMMENCED**
18 **CONSTRUCTION AND HAVE COMPLETED SUBSTANTIAL**
19 **PHYSICAL IMPROVEMENTS FOR THE PROJECT, AND HAVE**
20 **ALSO RECORDED AT LEAST 25% OF THE LOTS ASSOCIATED**
21 **WITH THE PROJECT, ARE NOT REQUIRED TO APPLY AND**
22 **OBTAIN EXTENSIONS OF PRELIMINARY PLANS AND CAN**
23 **CONTINUE TO COMPLETION WITHOUT EXTENSION**
24 **APPROVALS, PROVIDED THE PROJECTS ARE ALSO IN**
25 **COMPLIANCE WITH ANY OTHER CONDITIONS OF**
26 **APPROVAL.**

27
28 **SUBSTANTIAL PHYSICAL IMPROVEMENTS ARE THOSE**
29 **BEYOND EXCAVATION, GRADING AND FILLING AND MAY**
30 **INCLUDE:**

1
2 **a) CONSTRUCTION OF ROADS, OR A PORTION OF**
3 **ROADS FOR THE ENTIRE PROJECT (AT LEAST 25%) OR**
4 **FOR AN ENTIRE PHASE OF THE PROJECT AS**
5 **PREVIOUSLY DEFINED ON A PRELIMINARY PLAN; OR**

6
7 **b) CONSTRUCTION AND INSTALLATION OF**
8 **STORMWATER MANAGEMENT FACILITIES FOR THE**
9 **PROJECT (AT LEAST 25%) OR FOR AN ENTIRE PHASE**
10 **OF THE PROJECT; OR**

11
12 **c) FOR THOSE PROJECTS ON SHARED OR PUBLIC**
13 **SEWER AND WATER SYSTEMS, CONSTRUCTION OF A**
14 **PORTION OF THE SEWER AND WATER FACILITIES (AT**
15 **LEAST 25%) FOR THE PROJECT OR FOR AN ENTIRE**
16 **PHASE OF THE PROJECT AS PREVIOUSLY DEFINED.**

17
18 **A LETTER OF VERIFICATION OF SUBSTANTIAL**
19 **PHYSICAL IMPROVEMENT MAY BE REQUESTED FROM**
20 **THE COUNTY BY THE APPLICANT OR OWNER. A FEE**
21 **MAY BE REQUIRED WITH SUCH VERIFICATION.**

22
23 **C.** *Expiration.* Upon the expiration of any approval period
24 specified under this section, the plan shall be deemed as
25 disapproved by the Commission, and shall be automatically null
26 and void without any further action by the Planning Commission
27 being required.

28
29 **[D.** *Administrative Extensions.* The Planning Director may
30 grant an extension of a preliminary subdivision plan, subject to the

1 following requirements:

2
3 1. A request for an extension must be included with an
4 Improvement Plan submitted for review per Section 26. That
5 extension shall be for the period that the Improvement Plan is
6 under review.

7
8 2. Upon approval or conditional approval of an Improvement
9 Plan for any section of the subdivision shown on the preliminary
10 plan, and the request for an extension described above, the
11 preliminary plan can be administratively extended and considered
12 valid for the period of time which performance bonds or a
13 developer's agreement are posted with the County per Section 29,
14 plus one (1) year from the release of bonds or developer's
15 agreement.

16
17 3. A preliminary subdivision plan remains valid as long as a
18 performance bond or developers agreement remains in effect for
19 any portion of the subject property as described in Section 29, or
20 the expiration of the preliminary subdivision plan per this
21 subsection.

22
23 4. If the Planning Director determines that there are no
24 substantive changes to the approved preliminary plan or the
25 applicable conditions of approval, and if no new or further
26 adequate public facilities mitigation is required over and above the
27 mitigations previously approved by the Planning Commission, the
28 Planning Director may grant one-year extensions to a preliminary
29 plan. The Planning Director may not deny an extension request
30 without the approval by the Planning Commission.]

1
2 **[E]D. *Conformity Review.*** A review is required for additional extensions of time
3 beyond [the six (6)] **EIGHT YEARS (8) FROM THE INITIAL** [maximum]
4 date described in this subsection; **UNLESS OTHERWISE IN COMPLIANCE**
5 **WITH SECTION B2**, such extensions may be granted by the Planning
6 Commission, subject to the following requirements:

7
8 1. A request for an extensions must be submitted by the
9 [developer owner] **APPLICANT** [at least sixty (60) days] prior to the
10 expiration date. This request is to provide a reason for the extension
11 request, and the amount of time that is anticipated to be needed to
12 complete the project through recordation of all final plats.

13
14 2. A time table providing dates of submittals, approval,
15 [developer] **APPLICANT** or administrative actions for preliminary plans
16 and revisions, all Improvement Plans and final plats to be submitted as
17 an attachment to the request.

18
19 3. Upon receipt of the request, the Planning Director is to
20 prepare a conformity review in the form of a staff report to the
21 Planning Commission. This review is to compare the original or
22 revised preliminary subdivision plan to the existing or approved
23 physical improvements as shown on Improvement Plans, final
24 plats, Adequate Public Facility mitigation requirements, public
25 water or sewer allocations, pace of development including build
26 out rate, and the Planning Commission conditions of approval.
27 The process for this review is to be consistent with that of a new
28 preliminary subdivision plan, as described in Section 23 and
29 Section 25 above.
30

1 4. As part of the Conformity Review, the Planning Director
2 shall include recommendations to the Planning Commission for
3 preliminary subdivision plan extension approval or denial, or
4 recommend any revisions to the conditions of approval, including,
5 but not limited to, an update of the Adequate Public Facilities or
6 traffic impact studies, additional infrastructure improvements
7 based upon State or County capital improvement projects, revised
8 or new federal , State or County regulatory requirements, or
9 approved developments in the area.

10
11 5. The Planning Commission shall act on the request for
12 extension consistent with the procedures of subsection 25(i)i.A.,
13 and may include new or revised conditions of approval, based
14 upon the status of the development, County or State plans or
15 regulatory requirements, surrounding development, and any other
16 factors considered relevant by the Commission.

17
18 ii. *Conditional approval* means the applicant may proceed to the preparation
19 of the Improvement Plan, but only as approved according to all revisions or
20 conditions placed on the plan by the action of the Commission.

21
22 A. *Planning Commission revisions.* The Planning Director shall
23 provide a letter within three (3) days of the Planning Commission action to
24 the applicant and project engineer detailing those corrections and will
25 specify the number of copies to be submitted for signature. Signature sets
26 are to be submitted within ten (10) days of the Conditional Approval by
27 the Planning Commission. The Planning Director shall verify the
28 accuracy of the corrected signature sets prior to final approval. Upon
29 verification of the accuracy of the corrections, the preliminary plan shall
30 be considered approved. The [two (2)] **FOUR (4)** year validity period and

1 extension procedures described in subsection 25(i)i. above shall become
2 effective on the date of Planning Commission approval. The plan shall be
3 deemed as disapproved by the Planning Commission if this requirement is
4 not met.

5
6 B. *Failure to comply with approved conditions.* If at any time during
7 the development process the Planning Director determines that the
8 applicant has failed to adequately comply with the conditions imposed as a
9 part of the preliminary plan approval, the Planning Director shall advise
10 the applicant of the error. If the applicant does not take appropriate
11 measures to correct the discrepancy between the preliminary plan and the
12 development to date, the Planning Director shall notify the Chairman of
13 the Planning Commission to schedule a review of the original preliminary
14 plan and the current status of the project.

15
16 C. *Required Planning Commission revisions.* If the Planning
17 Commission requires a major revision to the preliminary subdivision plan
18 as described in Section 47, the applicant shall have six (6) months to in
19 subsection 25(f). The preliminary subdivision plan may be
20 administratively voided if the revision application is not submitted
21 consistent with the requirements of that section, or within the six (6)
22 month time period.

23
24 iii. *Deferral* means Commission action is delayed for definite reasons, which
25 shall be noted by the Commission. Certain specified changes may have to be
26 made in the plans, but a re-submittal of the plan for formal review per these
27 regulations is not required to be made by the applicant.

28
29 iv. *Denial* means disapproval of the plan. For further action, the applicant
30 must file a new application along with a filing fee and preliminary plan copies as

1 required under Section 24. The new application can only be accepted by the
2 Planning Office if:

3
4 A. One (1) full year has elapsed since the Planning Commission
5 denial; or,

6
7 B. The new application demonstrates to the Planning director that it
8 substantially addresses all Planning commission objections to the
9 preceding application, which were describe by the Commission in
10 accordance with this Section; or,

11
12 C. The new application is substantially different in concept, design,
13 density, or intensity from the preceding application. The Planning
14 Director will determine the suitability of the revised application within ten
15 (10) days.

1 **SECTION 2.** BE IT FURTHER ENACTED, that this Act shall take effect TEN (10)
2 calendar days after it becomes law.

COUNTY COMMISSIONERS OF
CHARLES COUNTY, MARYLAND

Candice Quinn Kelly, President

Reuben B. Collins, II, Esq., Vice President

Ken Robinson

Debra M. Davis, Esq.

Bobby Rucci

ATTEST:

Denise Ferguson, Clerk
